

Notice of Allowability	Application No.	Applicant(s)	
	10/026,232	HASNAIN ET AL.	
	Examiner	Art Unit	
	Davienne Monbleau	2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on 10/14/04.
2. ☒ The allowed claim(s) is/are 3-6 and 9-14.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S COMMENT AND STATEMENT OF REASONS FOR ALLOWANCE

Response to Amendment

The amendment filed on 10/14/04 has been entered. Claims 12-14 have been added. Claims 3-6 and 9-14 are pending.

Applicant's arguments regarding Claims 6 and 11 filed 10/14/04 have been carefully considered and found persuasive.

In particular, the Applicant argues on page 6 that there is no reasonable expectation of success in using the teachings in *Anayama* in the device of *Ibbetson*. *Ibbetson* teaches an upside down GaN-based laser in which the p-layers are grown first: thus the substrate must be one on which GaN layers can be grown. *Anayama* teaches making a laser diode in which the n-layers are grown first on a titled GaS substrate. Therefore, since *Ibbetson* and *Anayama* teach different orders in growing the layers, as well as different substrates (which have significantly different lattice constants), the substrate taught in *Anayama* would not be expected to function as a substrate in *Ibbetson*. And even though it is well known in the art to use various substrate materials based on the type of laser desired (i.e. emission wavelength), using a titled substrate of a certain material in one laser would not automatically indicate that a titled substrate of a different material would be desirable or necessary in a laser comprising other materials with different growth orders.

The Applicant additionally points out on page 6 that *Anayama* requires a very controlled implantation process to provide areas of one layer with different ratios of implant atoms in each area, which is difficult to obtain in upside down configurations.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Allowable Subject Matter

Claims 3-6 and 9-14 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding Claims 3-5, 9, 10, and 12-14, see the office action dated 6/16/04.

Regarding Claims 6 and 11, the cited prior art of record does not teach or fairly suggest an optical semiconductor device having an active layer comprising, along with the other claimed features, an n-p junction that is tilted at an angle with respect to said substrate.

The advantages of these features are in the specification on pages 1-3.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davienne Monbleau whose telephone number is 571-272-1945.


The examiner can normally be reached on Mon-Fri 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Davienne Monbleau

DNM


DAVID PORTA
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